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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
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11 SHAWN DAMON BARTH,
12 Plaintiff,

13 v.

14 SCOTT KERNAN, et al.,
15 Defendants.

Case No. CV 18-04763-DMG (RAO)

ORDER DISMISSING CASE

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17 On April 26, 2018, Plaintiff Shawn Damon Barth (“Plaintiff”), a California
18 prisoner proceeding *pro se*, filed a civil rights complaint pursuant to 42 U.S.C.
19 § 1983. (Dkt. No. 1.) On July 9, 2018, the Court denied Plaintiff’s request to proceed
20 *in forma pauperis* and dismissed his complaint with leave to amend within 30 days.
21 (Dkt. No. 4.) The Court’s order explained that the complaint failed to state a claim
22 under the First Amendment, Eighth Amendment, and the Racketeer Influenced and
23 Corrupt Organizations Act. The order further explained that one defendant was not
24 a “person” for purposes of a § 1983 action, some claims were barred by *Heck v.*
25 *Humphrey*, 512 U.S. 477, 486-87, 114 S. Ct. 2364, 129 L. Ed. 2d 383 (1994), and the
26 defendants could not be sued in their official capacities for monetary relief.

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1 On July 25, 2018, the Court received a request for an extension of time. (*See*
2 Dkt. No. 5.) However, this document was sent to the Court via United States Mail
3 in violation of the Court's General Order No. 18-02, which requires inmates at
4 Plaintiff's prison to submit their documents to prison staff for scanning and electronic
5 submission. *See* General Order No. 18-02, *In the Matter of Pilot Project for the*
6 *Submission of Certain Prisoner Filings through Electronic Mail*. Plaintiff was
7 notified on July 27, 2018, that his document was rejected, and he was provided with
8 instructions for proper submission. (Dkt. No. 5.)

9 On August 7, 2018, the Court received Plaintiff's First Amended Complaint
10 ("FAC"), which was also mailed to the Court in violation of General Order No. 18-
11 02. (*See* FAC, Dkt. No. 6.) Plaintiff did not include a request to proceed *in forma*
12 *pauperis*. Plaintiff was notified on August 8, 2018, that his filing was rejected, and
13 he was again instructed to resubmit his filing electronically. (*Id.*)

14 To date, the Court has not received any further filings from Plaintiff. In the
15 interests of justice, the Court has nevertheless screened the FAC in accordance with
16 28 U.S.C. §§ 1915(e)(2), 1915A(a)-(b).

17 Although the FAC omits two defendants in response to the Court's prior
18 screening order, the FAC's allegations are not materially different from those of the
19 original complaint. Indeed, the vast majority of the FAC is a verbatim copy of the
20 original complaint. The FAC thus fails to state a claim for the reasons previously
21 explained with respect to the original complaint, and it must be dismissed.

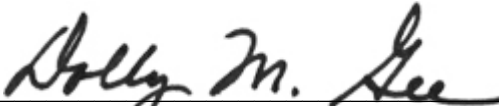
22 Because Plaintiff has failed to even attempt to amend his claims in a
23 meaningful way, further leave to amend is not warranted. *See Brown v. Fitzpatrick*,
24 667 F. App'x 267, 2016 WL 3450394, at *1 (9th Cir. June 23, 2016) (mem.) ("The
25 district court did not abuse its discretion in dismissing [the *pro se* plaintiff's]
26 amended complaint without leave to amend after providing [the plaintiff] with one
27 opportunity to amend."); *Fosselman v. Hidalgo*, 599 F. App'x 310, 310 (9th Cir.
28 2015) ("The district court did not abuse its discretion in denying [the plaintiff] further

1 leave to amend after his first amended complaint failed to cure the deficiencies.”);
2 *Zucco Partners, LLC v. Digimarc Corp.*, 552 F.3d 981, 1007 (9th Cir. 2009)
3 (“[W]here the plaintiff has previously been granted leave to amend and has
4 subsequently failed to add the requisite particularity to its claims, ‘[t]he district
5 court’s discretion to deny leave to amend is particularly broad.’” (alteration in
6 original) (quoting *In re Read-Rite Corp.*, 335 F.3d 843, 845 (9th Cir. 2003),
7 *abrogated on other grounds as recognized by South Ferry LP, No. 2 v. Killinger*, 542
8 F.3d 776, 783-84 (9th Cir. 2008))).

9 Accordingly, IT IS ORDERED that this case is DISMISSED without
10 prejudice.

11 LET JUDGMENT BE ENTERED ACCORDINGLY.

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13 DATED: September 10, 2018

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15 DOLLY M. GEE
16 UNITED STATES DISTRICT JUDGE

17 Presented by:

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20 ROZELLA A. OLIVER
21 UNITED STATES MAGISTRATE JUDGE
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